

STATE OF CALIFORNIA

**Energy Resources Conservation
And Development Commission**

In the Matter of:)	Docket No. 04-SIT-2
)	Order No. 04-1006-06
Proposed Adoption, Amendment, and Repeal)	
of Regulations Governing the Rules of Practice)	ORDER INSTITUTING
and Site Certification)	RULEMAKING
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I. PURPOSE OF THE PROCEEDING

Pursuant to Public Resources Code sections 25210 and 25213 and Title 20, California Code of Regulations, section 1222(a), the California Energy Commission (Commission) hereby institutes a proceeding to adopt, amend, and repeal regulations governing the Commission's Rules of Practice and Site Certification. The Rules of Practice are found at Title 20, California Code of Regulations, section 1101 et seq. and the Site Certification regulations are found at Title 20, California Code of Regulations, section 1701 et seq. The regulations implement various Public Resources Code sections governing the Commission's responsibilities with respect to the siting of thermal power plants and the Commission's rules of practice for its formal proceedings.

There are four topics that the Commission plans to address in this proceeding. First, we will consider amendments to the regulations governing the 6-month siting process. The existing regulations are based on statutory provisions that have expired. Earlier this year, new provisions were enacted by SB 1776 (Stats. 2004, ch. 245, §§ 1,2). The regulations need to be amended in order to conform to the new provisions. Second, we will propose amendments to the data adequacy regulations. These regulations specify the information that must be included in Applications for Certification and Applications for Small Power Plant Exemptions. (There are also regulations governing the informational requirements for an Application for a Notice of Intention, which the Commission will not be amending as part of this rulemaking.) Specific changes include identification of greenhouse gas emissions from thermal powerplants, and new informational requirements adopted as part of the United States Environmental Protection Agency's recently completed rulemakings on cooling water intake structures (66 Fed. Reg. 65,255 (Dec. 18, 2001); 69 Fed. Reg. 41,575 (July 9, 2004)). In addition, the Commission may consider other changes to the data adequacy regulations based on experience in recent siting cases. The third category of potential changes includes amendments to more closely align the Commission's rules governing procedure with the rules applicable to the Commission through the Administrative Adjudication portion of the Administrative Procedure Act (Govt. Code § 11400 et seq.) Finally, the Commission may consider any

other changes to these regulations, whether raised by its own motion, by staff, or by members of the public.

II. DELEGATION OF AUTHORITY TO THE SITING COMMITTEE

The Siting Committee, consisting of Commissioners John L. Geesman, and James D. Boyd, or a successor committee with comparable powers and duties appointed pursuant to Public Resources Code section 25211 (Committee), shall preside over this rulemaking proceeding. The Committee shall take all actions necessary to comply with all applicable legal requirements of the Public Resources Code, the Administrative Procedure Act (Govt. Code § 11340 et seq.), and implementing regulations, including submission, after a Commission hearing, of all necessary documents to the Office of Administrative Law, and issuance of notices for all hearings and workshops.

III. PUBLIC PARTICIPATION

The Commission encourages public participation in this proceeding. Any person present at any hearing or workshop shall be afforded a reasonable opportunity to make oral comments on the subject matter of the proceeding. Petitions to Intervene are unnecessary. Any person may file written comments on the rulemaking.

The Siting Committee shall issue a notice indicating the date of any hearings in the proceeding, and comments on the rulemaking must be received at the following address no later than the date specified in the notice:

Docket No. 04-SIT-2
Docket Unit
California Energy Commission
1516 Ninth Street, MS 4
Sacramento, CA 95814

The Executive Director shall ensure that this Order and notices of hearings and workshops are distributed to all interested persons, and that drafts of the regulations are made available sufficiently in advance of adoption by the Commission to allow timely participation. This Order and the notices shall be posted to the Commission's website at <http://www.energy.ca.gov/siting>. Margret Kim, the Commission's Public Adviser, is available to facilitate the participation of any person in this proceeding, and may be

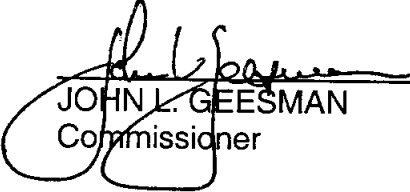
reached by calling (916) 654-4489 or toll-free in California at (800) 822-6228. All questions about the rulemaking or to be added to the mailing list, please contact Kristy Chew, at (916) 654-3929 or kchew@energy.state.ca.us.

Date: October 6, 2004

STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

(Absent)


WILLIAM J. KEESE
Chairman



JOHN L. GEESMAN
Commissioner

(Absent)

ARTHUR H. ROSENFELD
Commissioner



JACKALYNE PFANNENSTIEL
Commissioner



JAMES D. BOYD
Acting Chairman